

Call with mpca

Monday, April 30, 2018

9:33 AM

Handeland schmit, clark udd

Bauer, mckim, ackerman, pierard, rountree

Update from mpca

- Received 850 comments

- 2500 individual comments

- 4 requests for contested case hearings, npdes, 401 cert only

 - Mpca rules focus on ...material issue of fact... not legal interpretations or policy.

 - Mpca in process of reviewing comments to see how it relates to hearing being warranted.

 - Timeline is Idea of proceeding by end of May. DNR has statutory deadline to make determination, and mpca is working on coordinating. Commissioner decides ultimately

Epa comments that we discussed a few weeks ago.... Some overlap with contested case hearing comments. Mcea and water legacy raised some of the same concerns.

Mpca's response to comments won't directly address epa's concerns, but they view our comments to be similar to other comments that were raised.

Comments similar to epa's -

- Wqbels - not in permit

- Rpa not adequate

- Permit shield due to lack of wqbels

- Reliance on operating limit as indicator

- Desire for WET limit

- Discharge prohibition with insufficient monitoring

- Adaptive management - and permit mods

Strategy to move forward

Steps

- Determine material issues of fact raised in contested case hearings

- Reviewing comments - with contractor support. Categorizing comments into themes/buckets

- Focus right now is on contested case hearing requests due to end of may dnr deadline

CCH - happens at draft permit phase, this is primary time for hearing and to have judge decide on factual issues. Appeals court would be legal arguments not factual.